

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matters of Referrals by Groton RoVs Paul A. Duarte and Kristen D. Venditti,
File No. 2018-121 and Theodore Bromley, Office of the Secretary of the State ("SOTS"),
File No. 2019-012

AGREEMENT CONTAINING CONSENT ORDER

This Agreement, by and between Paul A. Duarte⁶ and Kristen D. Venditti, of the Town of Groton, State of Connecticut (hereinafter "Respondents") and the authorized representative of the State Elections Enforcement Commission is entered into in accordance with Section 9-7b-54 of the Regulations of Connecticut State Agencies and Section 4-177 (c) of the General Statutes of Connecticut. In accordance herewith, the parties agree that:

1. Respondents were the Groton Registrars of Voters and held their offices at all times relevant to this complaint and the November 6, 2018 General Election in the Town of Groton. Respondents, as Registrars of Voters, referred this matter (File No. 2018-121) to the Commission pursuant to General Statutes § 9-7b (a).
2. The companion case (File No. 2019-012) resulted from a referral by Attorney Theodore Bromley of the SOTS, also pursuant to General Statutes § 9-7b (a). Each involved the same potential violations regarding Election Day Registration ("EDR") balloting in Groton at the November 6, 2018 statewide election.
3. Ms. Kim Allen was a certified moderator and in charge of the EDR process on November 6, 2018. She was assisted by EDR Ballot Clerks Carol Carpenter and Jeanne Wolfgang.
4. The gravamen of these referrals is that 76 EDR ballots at the November 6, 2018 Groton election were rejected because election officials had not ensured that the signature lines on outer envelopes of ballot sets were completed. More specifically, the referrals indicate that EDR ballot outer envelopes were marked out or obscured at the direction of EDR Ballot Clerks or by the election officials themselves. Therefore, the ballots were rejected because the outer envelopes were not signed by the electors.
5. This settlement is limited to Respondents and any violations pertaining to other individuals are treated in a separate agreement.

⁶ The Commission notes that at the time of this settlement Mr. Duarte is no longer holds the office of Registrar of Voters for the Town of Groton.

6. There is no dispute, after investigation, that 76 EDR ballots were rejected and not counted after election officials administering the EDR process and location wrongly failed to ensure that the outer envelopes for EDR ballots were signed by electors. There are discrepancies in testimony as to how this mistake occurred.
7. There is also no dispute that Ms. Allen, a certified moderator, was in charge of the location designated for completing and processing EDR in Groton and that she was assisted by Ms. Carpenter and Ms. Wolfgang, who were designated EDR Ballot Clerks. More specifically, Ms. Allen and Ms. Wolfgang processed the EDR paperwork to establish or confirm individuals as electors and Ms. Carpenter administered the EDR ballot sets. Facts indicate that all three EDR election officials were appointed by Respondents, who delegated the responsibilities of EDR to them consistent with General Statutes § 19j.
8. General Statutes § 9-19j, provides in pertinent part:
 - (a) As used in this subsection and subsections (b) to (i), inclusive, of this section, "election day" means the day on which a regular election, as defined in section 9-1, is held.
 - (b) Notwithstanding the provisions of this chapter, a person who (1) is (A) not an elector, or (B) an elector registered in a municipality who wishes to change his or her registration to another municipality pursuant to the provisions of subdivision (2) of subsection (e) of this section, and (2) meets the eligibility requirements under subsection (a) of section 9-12, may apply for admission as an elector on election day pursuant to the provisions of subsections (a) to (i), inclusive, of this section.
 - (c) (1) *The registrars of voters shall designate a location for the completion and processing of election day registration applications on election day, provided the registrars of voters have access to the state-wide centralized voter registration system from such location.*
(2) *The registrars of voters may appoint one or more election officials to serve at such location and may delegate to such election officials any of the responsibilities assigned to the registrars of voters. The registrars of voters shall supervise such election officials and train such election officials to be election day registration election officials.*
 - (d) Any person applying to register on election day under the provisions of subsections (a) to (i), inclusive, of this section shall make application in accordance with the provisions of section 9-20, ...

(e) If the registrars of voters determine that an applicant satisfies the application requirements set forth in subsection (d) of this section, the registrars of voters shall check the state-wide centralized voter registration system before admitting such applicant as an elector.

(1) If the registrars of voters determine that the applicant is not already an elector, the registrars of voters shall admit the applicant as an elector and *the privileges of an elector shall attach immediately*. ...

(f) *If the applicant is admitted as an elector, the registrars of voters shall provide the elector with an election day registration ballot and election day registration envelope and shall make a record of such issuance. The elector shall complete an affirmation imprinted upon the back of the envelope for an election day registration ballot and shall declare under oath that the applicant has not previously voted in the election.* ...

(g) The elector shall forthwith mark the election day registration ballot in the presence of the registrars of voters in such a manner that the registrars of voters shall not know how the election day registration ballot is marked. *The elector shall place the election day registration ballot in the election day registration ballot envelope provided*, and deposit such envelope in a secured election day registration ballot depository receptacle...

(h) The provisions of the general statutes and regulations concerning procedures relating to the custody, control and counting of absentee ballots shall apply as nearly as possible, to the custody, control and counting of election day registration ballots under subsections (a) to (i), inclusive, of this section. ...

[Emphasis added.]

9. The Commission finds that all three EDR election officials were appointed by Respondents, and each was delegated Respondents' responsibilities for the administration of EDR; which Respondents, as the Groton Registrars of Voters, were required to perform pursuant to General Statutes § 9-19j.
10. After investigation, the Commission finds that 76 EDR ballots were rejected after the EDR moderator and two EDR ballot clerks improperly failed to ensure that the outer envelopes for EDR ballot sets were signed by electors at the November 6, 2018 election in Groton.

11. The Commission finds the testimony pertaining to how the errors in processing of EDR ballots occurred inconsistent. Ms. Allen asserts, by affidavit, that she conveyed to the EDR ballot clerk Ms. Carpenter instructions originally received from Registrar of Voters Venditti. However, Respondent Venditti, also through Groton Corporation Counsel, denied in the course of this investigation that that she provided any advice to Respondent indicating that it was unnecessary for electors to sign the outer envelopes for EDR ballot sets.
12. The Commission finds that Ms. Allen, was assigned to supervise the EDR location designated by the Respondents, and administered the registration and distribution of ballots with the assistance of Ms. Carpenter and Ms. Wolfgang at the November 6, 2018 election. After investigation, the Commission finds that these three designees did not fully understand their duties and responsibilities for administering EDR ballots.
13. Further, the Commission finds that Respondents, as registrars of voters, were charged with adequately training each of the three EDR designees pertaining to their appointment and assumption of Respondents' duties prior to and during election day to meet the requirements of General Statutes § 9-19j.

Registrars of Voters and Joint and Several Liability

14. Respondents as registers of voters are jointly and severally liable for the administration of elections. The Commission has consistently held that registrars of voters' responsibilities and liabilities pertaining to an election are joint and several. *See Referral of the Secretary of the State*, File No. 2014-156 and *Complaint by Daniel Hunt*, Manchester, File No. 2014-153⁷ (joint and several liability of Registrars including for purposes of: delivering voter registry lists by the deadline in General Statutes § 9-259; failing to timely mark of absentee ballot voters from official voter registry list pursuant to § 9-140c; and, failing to timely deliver a final registry list to the Town Clerk pursuant to § 9-140c); *Complaint by Christopher Halfer*, Danbury, File No. 2012-086 (joint and several liability for failure to properly train poll workers); and, *Complaint by James D. Smith*, Bridgeport, File No. 2013-021 (the responsibility of running an election is shared between registrars).
15. The Commission further finds that Respondents as registrars of voters and "chief election officials" at the election "share[d] joint responsibility for the accurate administration of such election." *See Complaint of James D. Smith, et al.*, Bridgeport, File No. 2013-021 (citing written instructions of the SOTS, and deference thereto, pursuant to General Statutes § 9-3). Moreover, Respondents, as "chief elections officials," are liable for the failures by their appointees and designees to adequately perform their duties and exercise their responsibilities as elections officials.

⁷ These matters were combined for purposes of the Commission's investigation and disposition.

16. The Commission concludes that Respondents failed to satisfy the requirements of General Statutes § 9-19j, which directly contributed to the rejection of 76 EDR ballots and subsequent disenfranchisement of each individual elector in Groton on November 6, 2018. As such, this violation of § 9-19j is a serious offense.
17. The Commission finds that Respondents in appointing designees that were charged with supervising and administering the EDR process on November 6, 2018 should have taken more affirmative steps to ensure its success. Such steps would include working with the EDR moderator and EDR ballot clerks to verify the process once the errors regarding the failure to require the signing of the outer EDR ballot envelope were discovered during the election in Groton, as in this instance.
18. The Commission finds that Respondents failed to exercise due diligence and adequate oversight that contributed to the failures with the EDR process. The Respondents have no previous history with the Commission in this area of the law or as registrars of voters.⁸
19. The Commission concludes that Respondents violated General Statutes §9-19j, pertaining to the appointment of designees and exercising their responsibilities for the EDR ballot process, which resulted in substantial disenfranchisement in Groton on November 6, 2018.
20. Pursuant to General Statutes § 9-7b (a) (2), the Respondent's liability is \$2,000.00 per violation of § 9-19j . In this instance, the facts show that there were 76 ballots that were improperly rejected.
21. Section 9-7b-48 of the Regulations of Connecticut State Agencies provides that, in the determination of the amount of the civil penalty to be imposed, the Commission shall consider, among other mitigating or aggravating circumstances:
 - (1) the gravity of the act or omission;
 - (2) the amount necessary to ensure immediate and continued compliance;
 - (3) the previous history of similar acts or omissions; and,
 - (4) whether the person has shown good faith in attempting to comply with the applicable provisions of the General Statutes.

⁸ Respondent Venditti has one prior matter that was dismissed by the Commission by Findings and Conclusions. *See Complaint by Shirleyann Dunbar-Rose*, Groton, File No. 2012-053 (Ms. Venditti served as Head Moderator and entered a polling place to retrieve equipment not related to the election. The Commission determined she was not an election official pursuant to General Statutes § 9-236 and therefore was not permitted to enter the polling place for any reason other than to cast a ballot. The Commission took no further action regarding the allegations).

Prior Systemic Election Day Failures

22. In *Smith*, where three write-in votes for Presidential candidate Jill Stein were not originally counted in violation of General Statutes § 9-265 and § 9-314, the Bridgeport registrars were ordered by the Commission to henceforth strictly comply with that section in settlement of the matter. In *SOTS and Hunt*, as referenced above, where there was a wholesale systemic failure by the Hartford Registrars of Voters to open polling places in a timely fashion and to timely provide voter registry lists citywide, the Registrars' Office paid a remittance of \$9,600.00.
23. The Commission also levied a series of civil penalties totaling \$9,000.00 for a systemic Election Day failure by election officials in New London where, among other problems, 60% of New London polling places were left without official registry lists.⁹ Finally, the Commission assessed a penalty of \$200.00 to each registrar,¹⁰ where registrars failed to "adequately and/or completely" train the poll workers on all the duties required of them in violation of § 9-249. *See Halfer*.

Disenfranchisement

24. The Commission in prior cases where disenfranchisement has occurred has assessed civil penalties of between \$200.00 and \$400.00. In one instance a Town Clerk was ordered to pay a \$400.00 civil penalty¹¹ when the Town Clerk's office failed to process an absentee ballot application properly and an individual was not able to vote. *See Complaint of Mary-Ellen Vollemans*, Bridgeport, File No. 2012-142. In another instance a moderator was ordered to pay a civil penalty for failing to offer an elector a full ballot after proper identification was presented by that individual. *See Complaint by Bernardus Van Gool*, Old Lyme, File No. 2014-183.
25. Here, as stated above, the Commission finds that Respondents' failure to provide adequate oversight and training to designees in the EDR resulted in substantial disenfranchisement in Groton on November 6, 2018. As such, a significant civil penalty is warranted here. In consideration of the aforesaid, the Commission will agree to settle the matter in exchange for a civil penalty of \$4,000.00, along with the Respondents' agreement to henceforth strictly comply with the prescriptions of General Statutes § 9-19j.

⁹ *See In re: New London Municipal Election*, File No. 2013-274 (where two registrars paid a total of \$6,000.00 between them and two machine mechanics split the payment of an additional \$3,000.00 payment of a civil penalty for failure to accurately set-up voting machines on a systemic basis).

¹⁰ That penalty was conditional and would be waived upon complying with extensive orders from the Commission including the taking of a full moderator training session by the registrars, and providing the Commission with copies of certifications from such training.

¹¹ That penalty could be reduced by half if Respondent sent a letter of apology for her error within 30 days of settlement with the Commission.

26. The Respondents admit all jurisdictional facts and concurs that this Agreement and Order shall have the same force and effect as a final decision and Order entered after a full hearing and shall become final when adopted by the Commission. The Respondents shall receive a copy hereof as provided in Section 9-7b-56 of the Regulations of Connecticut State Agencies.
27. The Respondents waive:
- a. Any further procedural steps;
 - b. The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law, separately stated; and
 - c. All rights to seek judicial review or otherwise to challenge or contest the validity of the Order entered into pursuant to this Agreement.
28. It is understood and agreed that this Agreement will be submitted to the Commission for consideration at its next meeting and, if the Commission does not accept it, it is withdrawn and may not be used as an admission by either party in any subsequent hearing, if the same becomes necessary.

ORDER

IT IS HEREBY ORDERED that Respondents henceforth strictly comply with § 9-19j, *each* shall pay a civil penalty in the amount of \$4,000.00, of which, \$2,000.00 is due from each upon adoption of this agreement.


IT IS HEREBY FURTHER ORDERED that Respondent Venditti is required to complete training and certification as provided by § 9-192a, specific to the Election Day Training Module of that program, within one year of the soonest date of the availability of such training program from the SOTS. Upon certification to the Commission that Respondent Venditti have satisfied that this training requirement, the Commission shall waive the outstanding balance of \$2,000.00 of the civil penalty in this matter; ^{for Ms. Venditti} in the absence of such certification within one year of the availability of such training program ^{from Ms. Venditti} from the SOTS, the remaining balance of \$2,000.00 shall be due ^{from Ms. Venditti} as Respondent Duarte is no longer serving as Registrar, training and payment of the remaining \$2,000.00 balance are waived ^{for him}.

For the Town of Groton:


Town Attorney
Town of Groton
Groton, Connecticut

Dated: 2/2/21

For the State of Connecticut:

BY: 
Michael J. Brandi, Esq.
Executive Director and General Counsel
& Authorized Representative of the
State Elections Enforcement Commission
55 Farmington Avenue, 8th Floor
Hartford, Connecticut

Dated: 2/3/21

Adopted this 3 day of FEB of 2021 at Hartford, Connecticut

Adopted this _____ day of _____ of 20____ at Hartford, Connecticut


Anthony Castagno, Chairman